



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9653-7]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of a Proposed Settlement Agreement; Request for Public Comment

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("CAA" or the "Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to address a lawsuit filed by Sierra Club in the United States District Court for the Western District of Wisconsin: Sierra Club v. Jackson, No. 3:11-cv-0315 (W.D. WI). Plaintiff filed a complaint alleging that EPA has failed to satisfy a non-discretionary duty or, in the alternative, has unreasonably delayed in acting on the title V permit issued by Wisconsin Department of Natural Resources ("WDNR") for Wisconsin Public Service Corporation's J.P. Pulliam Generating Station ("Pulliam") because WDNR had not submitted to EPA a permit revised to meet EPA's June 28, 2010 objection to this permit. Under the proposed settlement agreement, EPA agrees to a deadline for responding to a potential future petition submitted by Plaintiff.

DATES: Written comments on the proposed settlement agreement must be received by [insert date 30 days after publication date].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2012-0206, online at www.regulations.gov (EPA's preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday

through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Amy Huang Branning, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-1744; fax number (202) 564-5603; email address: branning.amy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

Plaintiff filed a complaint alleging that EPA has failed to satisfy a non-discretionary duty or, in the alternative, has unreasonably delayed in acting on the title V permit issued by Wisconsin Department of Natural Resources (“WDNR”) for Wisconsin Public Service Corporation’s J.P. Pulliam Generating Station (“Pulliam”) because WDNR had not submitted to EPA a permit revised to meet EPA’s June 28, 2010 objection to this permit. However, on February 16, 2012, EPA received a proposed revised title V permit for Pulliam from WDNR. As a result, Sierra Club and EPA plan to enter into a settlement. Under the proposed settlement agreement, if EPA objects to the proposed revised permit by April 1, 2012, Plaintiff must notify EPA within ten (10) days of EPA’s objection whether it seeks to lift the stay of the litigation. If Plaintiff seeks to lift the stay, the parties will file a joint motion to lift the stay within ten (10) days of Plaintiff’s notice, and EPA must file the administrative record within thirty (30) days of EPA’s objection. If Plaintiff does not seek to lift the stay, it will file a motion to dismiss the case with prejudice within thirty (30) days of EPA’s objection. If EPA does not object to the proposed revised permit and Plaintiff submits a timely administrative petition pursuant to CAA section 505(b)(2), 42 U.S.C. § 7661d(B)(2), requesting that

EPA object to such permit, EPA must respond to the petition within 80 days of receiving the petition. No action is required of EPA if Plaintiff does not submit a timely petition to EPA.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional information about commenting on the proposed settlement agreement.

A. How Can I Get A Copy Of the Settlement Agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2012-0206) contains copies of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use www.regulations.gov to submit or view public comments, access the index listing

of the contents of the official public docket, and to access those documents in the public docket that are available electronically, including an electronic copy of the proposed settlement agreement. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment

due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: March 23, 2012.

Patricia Embrey,
Acting, Associate General Counsel.

[FR Doc. 2012-7572 Filed 03/28/2012 at 8:45 am; Publication Date: 03/29/2012]